

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.	2:23-cv-10103-MRA-AGR	Date	September 3, 2024
Title	Xposure Photo Agency Inc. v. Christopher Brown		

Present: The Honorable MÓNICA RAMÍREZ ALMADANI, UNITED STATES DISTRICT JUDGE

Gabriela Garcia  
Deputy Clerk

None Present  
Court Reporter

Attorneys Present for Plaintiffs:

None Present

Attorneys Present for Defendants:

None Present

**Proceedings:** **(IN CHAMBERS) ORDER DECLINING MOTION FOR  
DEFAULT JUDGMENT WITHOUT PREJUDICE TO ITS  
RENEWAL**

Before the Court is Plaintiff's Motion for Default Judgment ("Motion"). ECF 22. The Court has read and considered the Motion and deems the matter appropriate for decision without oral argument. *See Fed. R. Civ. P. 78(b); L.R. 7-15.* The hearing set for September 5, 2024, is hereby **VACATED** and removed from the Court's calendar. For the reasons stated herein, the Court **DENIES** the Motion without prejudice.

Pursuant to Federal Rule of Civil Procedure 55(b), the Court may, upon motion, order default judgment following the entry of default by the Clerk. The rendering of default judgment is committed to the discretion of the district court. *See Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980). “[D]efault judgments are ordinarily disfavored,” and “[c]ases should be decided upon their merits whenever reasonably possible.” *NewGen, LLC v. Safe Cig, LLC*, 840 F.3d 606, 616 (9th Cir. 2016) (quoting *Eitel v. McCool*, 782 F.2d 1470, 1472 (9th Cir. 1986)). The Ninth Circuit has instructed district courts to consider the following factors in deciding whether to enter default judgment:

- (1) the possibility of prejudice to a plaintiff;
- (2) the merits of plaintiff's substantive claim;
- (3) the sufficiency of the complaint;
- (4) the sum of money at stake in the action;
- (5) the possibility of a dispute concerning material facts;
- (6) whether the default was due to excusable neglect; and
- (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

*Eitel*, 782 F.2d at 1471-72.

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In this district, the Local Rules further require that the application for default judgment be accompanied by a declaration in compliance with Rule 55(b) and include the following information:

(a) when and against what party the default was entered; (b) the identification of the pleading to which default was entered; (c) whether the defaulting party is an infant or incompetent person; (d) that the Servicemembers Civil Relief Act (50 U.S.C. App. § 521) does not apply; and (e) that notice has been served on the defaulting party, if required by Federal Rule of Civil Procedure 55(b)(2).

L.R. 55-1.

Plaintiff has not complied with the procedural requirements for an application for default judgment because it did not submit a detailed declaration of counsel in support of the Motion with the information required under Local Rule 55-1. ECF 34-1. Accordingly, the Court **DENIES** the Motion for Default Judgment without prejudice. Plaintiff may renew its Motion consistent with the requirements of Local Rule 55-1 within 14 days of this Order. Plaintiff shall serve Defendant with any renewed Motion within five (5) days of filing the Motion. Plaintiff shall file the proof of service with the Court within five (5) days of service.

**IT IS SO ORDERED.**

Initials of Deputy Clerk

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